275; Power *v.* Power, 65 N. J. Eq. 93, 55 Atl. 111; Power *v.* Power, 66 N. J. Eq. 320, 58 Atl. 192, 105 Am. St. Rep. 653.

"The wife's act of adultery while living separate from her husband pursuant to the terms of a separation agreement is thus operative to deny to her husband the right to require her return to him—a right preserved to him by our law—unless he condones an act which he is under no legal or moral obligation to condone. And the legal obligation of a husband to support his wife exists only so long as she shall remain chaste (Bradbury *v.* Bradbury, 74 Atl. 150), unless it shall be held that the burden of the agreement for support contained in a separation agreement survives that period."

In discussing former New Jersey decisions the court said: "In this state, in Dixon *v.* Dixon, 23 N. J. Eq. 316, a bill was filed by the husband to set aside a conveyance which had been made by the husband to his wife's trustee in settlement of her suit for maintenance. The ground for relief was the wife's adultery. On the motion for a preliminary injunction the wife's adultery subsequent to the conveyance was treated as admitted. It was there held by Chancellor Zabriskie that a deed of settlement of that kind, if good at its execution and delivery, would not be set aside for adultery or any misconduct of the wife afterwards. Some of the English cases above cited are there referred to in support of that view. The same view was adopted by Vice Chancellor Dodge, to whom the case was referred for final hearing. Dixon *v.* Dixon, 24 N. J. Eq. 133. In Lister *v.* Lister, 35 N. J. Eq. 49, the bill, filed by a husband, sought to set aside conveyances which he had made, or caused to be made, to his wife; the ground of relief in part being the wife's subsequent adultery. No separation agreement was there involved. The court found the conveyances to have been gifts to the wife, and held that her subsequent adultery afforded no ground for setting aside the conveyances. The same authorities cited in Dixon *v.* Dixon, supra, are there partially reviewed. In these New Jersey cases the effect of the subsequent adultery of the wife on executory stipulations for the wife's support contained in a separation agreement was in no way involved or considered. The conveyance which was sought to be set aside in Dixon *v.* Dixon was made long before the adultery was committed; there was clearly no total failure of consideration, and no basis for relief against the deed pro tanto."

Injunction—Interference with Business—"Bannering."—In Roraback *v.* Motion Picture Machine Operators' Union of Minneapolis (Minn.), 168 N. W. 766, 767, it was held that "bannering" plaintiff's place of business as unfair to organized labor and thereby deterring the public from patronizing him, if done for the purpose of com-

pelling him not to work as an operative himself in his own business, was unlawful and might be enjoined.

The court said: "As said in Ertz *v.* Produce Exchange, 79 Minn. 140, 81 N. W. 737, 48 L. R. A. 90, 79 Am. St. Rep. 433:

'One man singly or any number of men jointly, having no legitimate interests to protect, may not lawfully ruin the business of another by maliciously inducing his patrons and third parties not to deal with him.'

"Defendants may use any lawful means to accomplish a lawful purpose, although the means adopted may incidentally cause injury to plaintiff; but they may not intentionally injure or destroy plaintiff's business to accomplish an unlawful purpose. Gray *v.* Building Trades Council, 91 Minn. 171, 97 N. W. 663, 63 L. R. A. 753, 102 Am. St. Rep. 477, 1 Ann. Cas. 172; Hitchman Coal & Coke Co. *v.* Mitchell, 245 U. S. 229, 38 Sup. Ct. 65, 62 L. Ed. ——, Ann. Cas 1918B, 461; Erdman *v.* Mitchell, 207 Pa. 79, 56 Atl. 327, 63 L. R. A. 534, 99 Am. St. Rep. 783; Connors *v.* Connolly, 86 Conn. 641, 86 Atl. 600, 45 L. R. A. (N. S.) 564; March *v.* Bricklayers, etc., Union, 79 Conn. 7, 63 Atl. 291, 4 L. R. A. (N. S.) 1198, 118 Am. St. Rep. 127, 6 Ann. Cas. 848; Brennan *v.* United Hatters, 73 N. J. Law, 729, 65 Atl. 165, 9 L. R. A. (N. S.) 254, 118 Am. St. Rep. 727, 9 Ann. Cas. 698; Hopkins *v.* Oxley Stave Co., 28 C. C. A. 99, 83 Fed. 912; Klingel's Pharmacy *v.* Sharp & Dohme, 104 Md. 218, 64 Atl. 1029, 7 L. R. A. (N. S.) 976, 118 Am. St. Rep. 399, 9 Ann. Cas. 1184. * * * If men, either singly or in combination, may lawfully injure or destroy the business of another for the purpose of compelling him not to work in such business himself, it will have far-reaching consequences. Such a doctrine would limit the field of business to those who have sufficient capital to carry on a business without becoming operatives therein themselves, and would debar those who have little or no capital, except their personal skill and ability, from seeking to better their condition by engaging in business on their own account. Such a doctrine means that a machinist who starts a machine shop may lawfully be prevented from working therein as a machinist; that a carpenter who starts a carpenter shop may be required to have all his work done by others; that a barber who opens a barber shop must cease to work as a barber. It means that the man in any occupation who starts in business for himself, relying upon his personal skill and ability to attain success, must forego the right to profit by his own skill at the arbitrary behest of another, or see his business ruined. Such is not the law. The right of every person to work in his own business is a fundamental right guaranteed to him by the Bill of Rights in the Constitution and by the Fourth Amendment to the federal Constitution, and any attempt to deprive him of that right is necessarily unlawful. Truax *v.* Raich, 239

U. S. 33, 36 Sup. Ct. 7, 60 L. Ed. 131, L. R. A. 1916D, 545, Ann. Cas. 1917B, 283. However far members of an organization may go in an attempt to force an employer to employ members of the organization, an attempt to force him to desist from working himself in his own business is clearly an invasion of the rights secured to him by the Constitution. Berry *v.* Donovan, 188 Mass. 353, 74 N. E. 603, 5 L. R. A. (N. S.) 899, 108 Am. St. Rep. 499, 3 Ann. Cas. 738; Willner *v.* Silverman, 109 Md. 341, 71 Atl. 962, 24 L. R. A. (N. S.) 895; Gray *v.* Building Trades Council, 91 Minn. 171; Brennan *v.* United Hatters, 73 N. J. Law, 729, 65 Atl. 165, 9 L. R. A. (N. S.) 254, 118 Am. St. Rep. 727, 9 Ann. Cas. 698; Hundley *v.* L. & N. Ry. Co., 105 Ky. 162, 48 S. W. 429, 63 L. R. A. 289, 88 Am. St. Rep. 298; Erdman *v.* Mitchell, 207 Pa. 79, 56 Atl. 327, 63 L. R. A. 534, 99 Am. St. Rep. 783; De Minico *v.* Craig, 207 Mass. 593, 94 N. E. 317, 42 L. R. A. (N. S.) 1048; Hitchman Coal & Coke Co. *v.* Mitchell, 245 U. S. 229, 38 Sup. Ct. 65, 62 L. Ed. ——, Ann. Cas. 1918B, 461.

"If the facts bear out plaintiff's claim that the purpose of defendants is to compel him to cease working as an operator in his own business, it will follow that they are seeking to accomplish an unlawful purpose, and that the acts by which they are attempting to prevent the public from patronizing him will fall within the class of acts which the law deems malicious, and which it is the duty of the courts to restrain. Hitchman Coal & Coke Co. *v.* Mitchell, 245 U. S. 229, 38 Sup. Ct. 65, 62 L. Ed. ——, Ann. Cas. 1918B, 461. Acts which may not be unlawful if committed for the purpose of inducing an employer to discharge one workman, or set of workmen, in order to give employment to another workman, or set of workmen, may be enjoined if committed for the purpose of depriving the employer of the right to use his own skill and ability in the furtherance of his own business, for his right to work in his own business is superior to the right of any other in respect to such business."

Interstate Commerce—Transportation Held Intrastate.—In Settle *v.* Baltimore, etc., R. Co. (Circuit Court of Appeals, Sixth Circuit), 249 Fed. 913, it appeared that interstate shipments of carloads of lumber were billed to a point where the cars were received by the consignee and the freight paid, and that the carrier made a trackage charge for placing the cars on a house track. The cars were not unloaded but were rebilled from such point to another point in the same state on same carrier's line. It was held that such second shipment was separate and intrastate and governed by intrastate rates. The court said: "It is well settled that whether a given transportation is interstate or intrastate must be determined by the essential character of the commerce, and that an interstate charac-